SINGLE BENCH

C.S. 1001

(2)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (C.G.)

WRIT PETITION NO. 3607 2006

PETITIONER

HariRam Nishad S/o Shri Nandlal Nisad, aged about 31 years, Panchyat Karmi, Gram Panchyat Leemgaon, Resident of Village-Leemgaon, Post-Khokhasipali, Block & Tahsil-Sarangarh District-Raigarh (C.G.)

P.R. No. 3683/06
Presented by Shri [illegible] Shrivas
dated 18/7/06

VERSUS

RESPONDENTS

1. State of Chhattisgarh, Through the Secretary Panchyat & Rural Development Department D.K.S.Bhawan Raipur (C.G.)
2. The Additional Collector Raigarh, Dist. Raigarh (C.G.)
3. The Deputy Director Panchyat & Social Welfare Raigarh Dist. Raigarh (C.G.)
4. The Sub-divisional Officer, Sarangarh, Dist. Rairarh (C.G.)
5. Smt. Noni Bai W/o Shri MaheshRam Teli, Sarapanch of Gram Panchyat Leemgaon, Resident of Leemgaon thasil-Sarangarh Dist. Raigarh (C.G.)

CERTIFIED COPY
18/7/06
CLERK to A. G. BILASPUR

WRIT PETITION UNDER ARTICLE 226/227 OF THE COUNSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN NATURE OF CEERTIORARI, MANDAMUS, PROHIBITION AND OTHER SUITABLE WRIT OR WRITS, DIRECTION OR DIRECTIONS, ORDER OR ORDERES:

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XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP 3607/06 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	21-7-2006:- Shri R.S. Patel, counsel for the petitioner. Shri Sumesh Bajaj, Government Advocate for the State/ respondents No.1 to 4, on advance copy. Heard both the counsel. By the instant petition, the petitioner has questioned the order dated 1st July 2006 passed by the Additional Collector, Raigarh whereby the Additional Collector allowed the appeal filed by the Sarpanch, Gram Panchayat, Leemgaon and quashed the order dated 21-2-2006 passed by Sub Divisional Officer. The case of the petitioner is that the petitioner was appointed on the post of Panchayat Karmi on 11-10-95 and vide order dated 19-12-2005 the petitioner was given additional charge. Thereafter, all of a sudden, on 17-4-2005, respondent No.5 has removed the petitioner from the post of Panchayat Karmi without following the procedure as envisaged in the Chhattisgarh Panchayat Service (Discipline and Appeal) Rules, 1999. On 23-4-2005, respondent No.3 passed an order that respondent No.6 is appointed as Panchayat Sachiv. The petitioner challenged his removal order dated 17-4-2005 as well as the order dated 23-4-2005 before the S.D.O. and SDO allowed the application of the petitioner and quashed the removal order on 21-2-2006. It is admitted position that the services of Panchayat Karmi are governed under the Rules, 1999 and major penalties as mentioned in the Rules 5 (b) can be imposed only after following the procedure of enquiry as envisaged under Rule 7 of the Rules, 1999. In the present case, admittedly, before imposing the penalty of removal of the petitioner, no such procedure has been adopted by the Gram Panchayat.	

P.T.O.

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XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Perusal of the impugned order dated 17-4-2005 whereby the petitioner was removed from the post of Panchayat Karmi shows that vide resolution No.1 dated 8-4-2005 the petitioner was removed from the post of Panchayat Karmi.

Since the procedure as envisaged in Rule 7 of the Rules, 1999 has not been adopted, therefore, the order Annexure-P/3 of the Sarpanch, Gram Panchayat, Leemgaon is without jurisdiction and if this order is allowed to exist, then same would amount to failure of justice, as such, this petition is being disposed of at the admission stage itself because issuance of notice to respondent No.5 will amount to further delay of the proceeding. However, if respondent No.5 still feels aggrieved by this order, then she will be at liberty to file an application for recalling of this order.

In the result, the writ petition is allowed and the orders passed by the Additional Collector dated 1st July 2006 and Sarpanch, Gram Panchayat, Leemgaon dated 17-4-2005 are quashed. It is made clear that the competent authority shall be at liberty to initiate enquiry against the petitioner under the Rules, 1999 and thereafter to take appropriate decision, in accordance with law.

In view of this order, M.(W.)P. No.2800/2006 stands disposed of.

Parties are entitled for certified copy of this order.

Sd/-
L.C.Bhadoo
Judge

Barve

P.T.O.

27/7/06 17-8-06